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EXAMINER

REGO, DOMINIC E

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2618

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/761,487	Applicant(s) VALLEY ET AL.	
	Examiner Dominic E. Rego	Art Unit 2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17,23 and 24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17,23 and 24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 and 2 are rejected under 35 U.S.C. 102(e) as being anticipated by Burr, Jr. et al. (US Patent #6,978,116).

Regarding claim 1, Burr, jr. teaches a method for operating a radio station (Figure 1, affiliate radio station 30), comprising:

periodically receiving content files via a satellite uplink (*Col 1, lines 30-43: Burr, jr. teaches in FIG. 1, real-time digital audio program material is broadcast from a network headend facility 10 over a satellite communication link 20 to a number of geographically dispersed users (such as affiliate radio stations) 30*);

storing the received content files; and retrieving, playing and broadcasting at least some of the stored content files (*Col 1, lines 44-62; Col 2, lines 13-27*) in accordance with an electronic schedule (This is inherent to all the radio station to have a electronic schedule same as a time schedule for each program that need to be broadcast), without syncing the playback and broadcast of the at least some of the

stored content files to a real-time network feed (Col 1, lines 44-62: Burr, Jr. teaches concurrent with the real-time satellite transmission of the to-be-rebroadcast program material, additionally unique information (e.g. local commercials, specific station identifiers, delayed programming, etc.) (files) may be downloaded from the headed station to its affiliate radio station receivers and stored in a local digital storage device (e.g. hard disk, solid state flash memory, and the like) for later use by the affiliate station. Since content is provided to the affiliates as files e.g. local commercials, specific station identifiers, delayed programming, etc., there is no common broadcast media stream that all of the affiliate must sync to).

Regarding claim 2, Burr, Jr. teaches the method, wherein the electronic schedule is at least partly derived from a network schedule that is provided to the radio station via the satellite downlink (Col 1, lines 30-43; Col 2, lines 13-67: Burr, Jr. teaches the equipment employed at a respective affiliate radio station 30 is comprised principally of a receiving satellite antenna subsystem 31, the output of which is coupled to a store and forward receiver 32. In its most basic application, the receiver may output received audio programming directly to an attendant rebroadcasting unit 33, such as one containing conventional radio broadcast transmission equipment, and the like, for real-time rebroadcast of the audio programming, so rebroadcasting radio program according to the electronic schedule from rebroadcasting unit 33 and receiving radio program from content provider 10 according to network schedule where electronic schedule derived from network schedule).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burr, Jr. et al. (US Patent #6,978,116) in view of Billmaier (US Patent Application Publication #2004/0244042).

Regarding claim 3, Burr, Jr. fails to teach the method, wherein the electronic schedule is at least partly derived from a network schedule that is provided to the radio station via an internet connection.

However, in related art, Billmaier teaches the method, wherein the electronic schedule is at least partly derived from a network schedule that is provided to the radio station via an Internet connection (Paragraphs 0033 and 0034).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the above teaching of Billmaier to Burr, Jr. in order to broadcast the radio program around the world.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burr, Jr. et al. (US Patent #6,978,116) in view of Klosterman (US Patent #5,923,362).

Regarding claim 4, Burr, Jr. teaches a method for operating a radio station, comprising:

periodically receiving content files via a satellite downlink (*Col 1, lines 30-43: Burr, jr. teaches in FIG. 1, real-time digital audio program material is broadcast from a network headend facility 10 over a satellite communication link 20 to a number of geographically dispersed users (such as affiliate radio stations) 30*);

storing the received content files (*Col 1, lines 44-62; Col 2, lines 13-27*);

retrieving, playing and broadcasting at least some of the stored content files in accordance with the electronic schedule (*Col 1, lines 44-62; Col 2, lines 13-27*), except for generating an electronic schedule by merging i) a network schedule received from a content provider, and ii) a local schedule maintained at the radio station.

However, in related art, Klosterman teaches generating an electronic schedule by merging i) a network schedule received from a content provider, and ii) a local schedule maintained at the radio station (See Abstract).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the above teaching of Klosterman to Burr, Jr. in order to view the broadcasting program accordingly.

6. Claims 4,6, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burr, Jr. et al. (US Patent #6,978,116) in view of Klosterman (US Patent #6,072,983).

Regarding claim 4, Burr, Jr. teaches a method for operating a radio station, comprising:

periodically receiving content files via a satellite downlink (*Col 1, lines 30-43: Burr, jr. teaches in FIG. 1, real-time digital audio program material is broadcast from a network headend facility 10 over a satellite communication link 20 to a number of geographically dispersed users (such as affiliate radio stations) 30*);

storing the received content files (*Col 1, lines 44-62; Col 2, lines 13-27*);

retrieving, playing and broadcasting at least some of the stored content files in accordance with the electronic schedule (*Col 1, lines 44-62; Col 2, lines 13-27*), except for generating an electronic schedule by merging i) a network schedule received from a content provider, and ii) a local schedule maintained at the radio station.

However, in related art, Klosterman teaches generating an electronic schedule by merging i) a network schedule received from a content provider, and ii) a local schedule maintained at the radio station (*Col 6, lines 11-61*).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the above teaching of Klosterman to Burr, Jr. in order to view the broadcasting program accordingly.

Regarding claim 6, the combination of Burr, jr. and Klosterman teach all the claimed elements in claim 4. In addition, Burr, jr. teaches the method, further comprising, when merging said network and local schedules:

identifying breaks in the network schedule (*Col 2, lines 28-37*);

determining, for each break, whether the local schedule specifies at least a minimum quantity of content for the break (col 2, lines 28-37: minimum quantity of content for the break is commercial break), and

i) if the local schedule specifies a minimum quantity of content for the break, filling the break with the specified content (col 2, lines 55-67); and

ii) if the local schedule does not specify a minimum quantity of content for the break, filling the break with the specified content, if any, and optional content specified by the network schedule (col 2, lines 55-67).

Regarding claim 8, the combination of Burr, jr. and Klosterman fail to teach the method, wherein: the network schedule specifies optional content for each break in the network schedule; and if optional content is used to fill a break in the network schedule, all of the optional content specified for the break is used.

However, Burr, Jr. also teaches although the each of the eight actions listed above for a typical sixty second station break is a relatively simple function, it is imperative that they be executed with a very high degree of timing accuracy, in order to ensure that they be perceived to the listener as occurring instantaneously (without delay) (Col 2, lines 55-67). So, if one of those commercial/advertise (content) becomes corrupted, there is obviously have other option to cover the corrupted commercial/advertise/content.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the above teaching so that program can broadcast continually with a high degree of timing accuracy.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burr, Jr. et al. (US Patent #6,978,116) in view of Klosterman (US Patent #6,072,983 and #5,923,362) and further in view of Osato et al. (US Patent Application Publication #2003/0153264).

Regarding claim 5, the combination of Burr, Jr. and Klosterman fail to teach the method, wherein said network schedule and local schedule are merged once an hour to generate the electronic schedule for the next hour.

However, in related art, Osato teaches the method, wherein said network schedule and local schedule are merged once an hour to generate the electronic schedule for the next hour (paragraph 0095).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the above teaching of Osato to Burr, Jr. and Klosterman in order to constantly broadcasting radio program without being silence between the gaps/breaks.

8. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burr, Jr. et al. (US Patent #6,978,116) in view of Klosterman (US Patent #6,072,983 and #5,923,362) and further in view of Plotnick et al. (US Patent Application Publication #2005/0097599).

Regarding claim 7, Burr, Jr. fails to teach the method, wherein the minimum quantity of content is at least ninety seconds of content.

However, in related art, Plotnick teaches the method, wherein the minimum quantity of content is at least ninety seconds of content (Paragraph 0226).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the above teaching of Plotnick to Burr, Jr. and Klosterman in order to accurately cover the break time without any delay.

9. Claims 9,11,12,13,15-17, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burr, Jr. et al. (US Patent #6,978,116) in view of Holtz et al. (US 2003/0070167).

Regarding claim 9, Burr, Jr. teaches a method, comprising:

providing a plurality of affiliate radio stations with content files via a satellite-based content delivery system (*Col 1, lines 30-62: Burr, jr. teaches in FIG. 1, real-time digital audio program material is broadcast from a network headend facility 10 over a satellite communication link 20 to a number of geographically dispersed users (such as affiliate radio stations) 30;*

providing each of the affiliate radio stations with an electronic schedule (*This is inherent to all the radio station to have a electronic schedule same as a time schedule for each program that need to be broadcast in a timely manner*) that instructs an automation system (*Col 2, lines 22-25: Burr, Jr. teaches the receiver may be connected*

to an automation system, which may accept signaling inputs from or provide signal outputs to the receiver) of the affiliate radio station to retrieve, play and broadcast ones of the content files, thereby generating a near real-time radio broadcast (Col 1, lines 44-62; Col 2, lines 13-27), except for the electronic schedule specifying breaks that may be dynamically resized or filled in different ways, based on each affiliate radio station's available content to fill the breaks.

However, in related art, Holtz teaches the electronic schedule specifying breaks that may be dynamically resized or filled in different ways, based on each affiliate radio station's available content to fill the breaks (*Paragraph 0142: Holtz teaches at times during a live broadcast, a scheduled break must be dynamically extended or shortened from the original duration. Traffic module 204 (with or without CIA) is operable to adjust the lineup schedule in accordance with these dynamic changes*).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the above teaching of Holtz to Burr, Jr. in order to broadcast program without having any gap between.

Regarding claim 11, the combination of Burr, Jr. and Holtz teach all the claimed element in claim 9. In addition, Burr, Jr. teaches the method, wherein the electronic schedules provided to at least two of the affiliate radio stations each reference a given content file indicator (specific station identifier) (*Col 1, lines 30-62: Burr, Jr. teaches in FIG. 1, real-time digital audio program material is broadcast from a network headend facility 10 over a satellite communication link 20 to a number of geographically dispersed users (such as affiliate radio stations) 30*); the method further comprising:

recording at least two different content files for the given content file indicator, and associating each of the different content files with a different token (Col 1, line 30-Col 2, line 25: *Burr, Jr. teaches in FIG. 1, real-time digital audio program material is broadcast from a network headend facility 10 over a satellite communication link 20 to a number of geographically dispersed users (such as affiliate radio stations) 30 with a different token (file information))*; and

in response to said different tokens, said satellite-based content delivery system providing a different content file to each of the at least two affiliate radio stations (Col 1, lines 44-62).

Regarding claim 12, Burr, Jr. teaches a radio network, comprising:

a plurality of affiliate radio stations (Col 1, lines 30-62: *Burr, Jr. teaches in FIG. 1, real-time digital audio program material is broadcast from a network headend facility 10 over a satellite communication link 20 to a number of geographically dispersed users (such as affiliate radio stations) 30*);

a content provider (Figure 1, Real-time audio content 11), linked to the plurality of affiliate radio stations (Col 1, lines 30-62: *Burr, Jr. teaches in FIG. 1, real-time digital audio program material is broadcast from a network headend facility 10 over a satellite communication link 20 to a number of geographically dispersed users (such as affiliate radio stations) 30*) via a satellite-based content delivery system (Figure 1, elements 12-14), providing content to each of the affiliate radio stations in the form of discrete content files (Col 1, lines 30-42), and providing each of the affiliate radio stations with an electronic schedule (*This is inherent to all the radio station to have a electronic schedule*

same as a time schedule for each program that need to be broadcast in a timely manner) that instructs an automation system (*Col 2, lines 22-25: Burr, Jr. teaches the receiver may be connected to an automation system, which may accept signaling inputs from or provide signal outputs to the receiver*) of the affiliate radio station to retrieve, play and broadcast ones of the content files, thereby generating a near real-time radio broadcast (*Col 1, lines 44-62; Col 2, lines 13-27*), except for the electronic schedule specifying breaks that may be dynamically resized or filled in different ways, based on each affiliate radio station's available content to fill the breaks.

However, in related art, Holtz teaches the electronic schedule specifying breaks that may be dynamically resized or filled in different ways, based on each affiliate radio station's available content to fill the breaks (*Paragraph 0142: Holtz teaches at times during a live broadcast, a scheduled break must be dynamically extended or shortened from the original duration. Traffic module 204 (with or without CIA) is operable to adjust the lineup schedule in accordance with these dynamic changes*).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the above teaching of Holtz to Burr, Jr. in order to broadcast program without having any gap between.

Regarding claim 13, the combination of Burr, Jr. and Holtz teach all the claimed elements in claim 12. In addition, Burr, Jr. teaches the radio network, wherein the content provider (*Figure 1, Real-time Audio content 11*) uses a one-way link of the satellite-based content delivery system (*Figure 1, elements 12-14*) to transfer content files to ones of the affiliate radio stations (*Figure 1, element 30*).

Regarding claim 15, the combination of Burr, Jr. and Holtz teach all the claimed elements in claim 12. In addition, Burr, Jr. teaches the radio network, wherein the content provider (Figure 1, Real-Time content 11 or audio server 14) comprises:

an origination component providing operators of the content provider an interface to record and manage content files that are to be transmitted to the affiliate radio stations (Col 1, line 63-Col 2, line 12); and

a distribution component to deliver said content files via the satellite-based content delivery system (Col 1, line 63-Col 2, line 12).

Regarding claims 16, the combination of Burr, Jr. and Holtz teach all the claimed elements in claim 15. In addition, Burr, Jr. teaches the radio network, wherein the content provider further comprises an encapsulation component to encapsulate said content files prior to their distribution by the distribution component (Col 1, lines 30-42).

Regarding claim 17, the combination of Burr, Jr. and Holtz teach all the claimed elements in claim 12. In addition, Burr, Jr. teaches the radio network, wherein the content provider provides content to different ones of the affiliate radio stations using only a single satellite (Figure 1, element 20) channel of the satellite-based content delivery system (Col 1, lines 30-42; Col 2, lines 13-27).

Regarding claim 24, Burr, Jr. teaches a method for operating a radio station (Figure 1, affiliate radio station 30), comprising:

periodically receiving content files via a satellite downlink (Col 1, lines 30-43:

Burr, jr. teaches in FIG. 1, real-time digital audio program material is broadcast from a

network headend facility 10 over a satellite communication link 20 to a number of geographically dispersed users (such as affiliate radio stations) 30);

storing the received content files; retrieving, playing and broadcasting at least some of the stored content files (Col 1, lines 44-62; Col 2, lines 13-27) in accordance with an electronic schedule (*This is inherent to all the radio station to have a electronic schedule same as a time schedule for each program that need to be broadcast*) that is at least partly derived from the network schedule; receiving a network schedule from a content provider (Col 1, lines 30-43; Col 2, lines 13-67: *Burr, Jr. teaches the equipment employed at a respective affiliate radio station 30 is comprised principally of a receiving satellite antenna subsystem 31, the output of which is coupled to a store and forward receiver 32. In its most basic application, the receiver may output received audio programming directly to an attendant rebroadcasting unit 33, such as one containing conventional radio broadcast transmission equipment, and the like, for real-time rebroadcast of the audio programming, so rebroadcasting radio program according to the electronic schedule from rebroadcasting unit 33 and receiving radio program from content provider 10 according to network schedule where electronic schedule derived from network schedule*), except for identifying breaks in the network schedule; dynamically resizing the identified breaks based on the radio station's available content to fill the breaks.

However, in related art, Holtz teaches identifying breaks in the network schedule; dynamically resizing the identified breaks based on the radio station's available content to fill the breaks (*Paragraph 0142: Holtz teaches at times during a live broadcast, a*

scheduled break must be dynamically extended or shortened from the original duration. Traffic module 204 (with or without CIA) is operable to adjust the lineup schedule in accordance with these dynamic changes).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the above teaching of Holtz to Burr, Jr. in order to broadcast program without having any gap between.

10. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burr, Jr. et al. (US Patent #6,978,116) in view of Holtz et al. (US 2003/0070167) and further in view of Corts et al. (US Patent Application Publication #2002/0095228).

Regarding claims 10, Burr, Jr. fails to teaches the method, wherein different electronic schedules are provided to the affiliate radio stations corresponding to each of a number of different radio broadcast formats.

However, in related art, Corts teaches the method, wherein different electronic schedules are provided to the affiliate radio stations corresponding to each of a number of different radio broadcast formats (Paragraph 0329).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the above teaching of Corts to Burr, Jr. and Holtz so that radio station can broadcast radio program in times of the day.

11. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burr, Jr. et al. (US Patent #6,978,116) in view of Holtz et al. (US 2003/0070167) and further in view of Billmaier (US Patent Application Publication #2004/0244042).

Regarding claim 14, the combination of Burr, Jr. and Holtz fails to teach the radio network, wherein the content provider is further linked to the plurality of affiliate radio stations via a bidirectional internet return link that provides a backup connection for transferring content files to ones of the affiliate radio stations.

However, in related art, Billmaier teaches the radio network, wherein the content provider is further linked to the plurality of affiliate radio stations via a bidirectional internet return link that provides a backup connection for transferring content files to ones of the affiliate radio stations (Paragraphs 0033 and 0034).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the above teaching of Billmaier to Burr, Jr. and Holtz in order to broadcast the radio program around the world.

12. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burr, Jr. et al. (US Patent #6,978,116) in view of Klosterman (US Patent #6,072,983 and #5,923,362) and further in view of Holtz et al. (US 2003/0070167).

Regarding claim 23, the combination of Burr, Jr. and Klosterman fails to teach the method, further comprising, when merging said network and local schedules: identifying breaks in the network schedule; and dynamically resizing each of the breaks based on availability of content in the local schedule to fill each of the breaks.

However, in related art, Holtz teaches the method, further comprising, when merging said network and local schedules: identifying breaks in the network schedule; and dynamically resizing each of the breaks based on availability of content in the local schedule to fill each of the breaks (*Paragraph 0142: Holtz teaches at times during a live broadcast, a scheduled break must be dynamically extended or shortened from the original duration. Traffic module 204 (with or without CIA) is operable to adjust the lineup schedule in accordance with these dynamic changes*).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the above teaching of Holtz to Burr, Jr. and Klosterman in order to broadcast program without having any gap between.

Response to Arguments

Applicant's arguments with respect to claims 1-17, 23, and 24 have been considered but are moot in view of the new ground(s) of rejection. Regarding claims 3 and 14, Applicant argues that Billmaier's paragraphs [0033] and [0034], do not disclose "a network schedule that is provided to a radio station via internet connection". The Examiner disagrees. Paragraph 0033, Billmaier teaches the radio schedule database 116 preferably maintains schedule information for past, present, and future radio

programs. A plurality of radio stations 112 receive schedule information via internet and broadcast in accordance with an electronic schedule. Regarding claim 5, Applicant argues that Osato does not indicate that any change in the schedule of a plurality of events is a result of merging a local schedule with a network schedule. The Examiner disagrees. In paragraphs 0095, Osato teaches the NBC station section of the time table between 9 and 10 pm, which may be at least one event from a schedule of a plurality of events, may be blanked out because the NBC station may change the time or change the type of show that will be viewed between 9 and 10 pm. Record company server 105, that is continually monitoring television, radio stations, print publications and the like is able to obtain updated time table information or an unscheduled plurality of events that contains information related to the event or blanked out time interval between 9 and 10 pm, which is then transmitted, in 652, to music server 103. The unscheduled plurality of events may be combined with the schedule of the plurality of events to form a revised schedule of a plurality of events or a revised time table, or an updated schedule of the plurality of events in song information database 407. The reason is to fill the gap between the break so that no silence moment exist between the programs. Regarding claim 7, Applicant argues that Plotnick fails to teach the method of claim 6, "where the minimum quantity of content is at least ninety seconds of content. The Examiner disagrees. Paragraph 0226, Plotnick teaches the approximate amount of time that the ad (content) would run (i.e. 30 seconds or possibly 2 minutes for the entire break), where 2 minutes is greater than ninety seconds. Regarding claim 8, Applicant argues that Burr, Jr. et al. does not teach "the method, wherein: the network schedule specifies

optional content for each break in the network schedule; and if optional content is used to fill a break in the network schedule, all of the optional content specified for the break is used". The examiner disagrees. Even though Burr, Jr. does not teach explicitly, however, Burr, Jr., in Col 2, lines 55-67, teaches although the each of the eight actions listed above for a typical sixty second station break is a relatively simple function, it is imperative that they be executed with a very high degree of timing accuracy, in order to ensure that they be perceived to the listener as occurring instantaneously (without delay). So, if one of those commercial/advertise (content) becomes corrupted, there is obviously have other option to cover the corrupted commercial/advertise/content with a very high degree of timing accuracy. Regarding claim 10, the Examiner apologies to the Applicant for misstating the incorrect Publication number which should be "Corts et al. Publication No. 2002/0095228" and teaches all the claimed limitations as Applicant recites in claim 10.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dominic E. Rego whose telephone number is 571-272-8132. The examiner can normally be reached on Monday-Friday, 8:30 am-5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 571-272-7882. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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